

§ 295.21

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fully meet obligations under MSP Operating Agreements, a Contractor may request termination of the agreement in accordance with paragraph (f), herein, and § 295.30.

(h) *Requisition authority.* To the extent section 902 of the act is applicable to any vessel transferred foreign under this section, the vessel shall remain available to be requisitioned by the Maritime Administration under that provision of law.

(i) *Transfer of Operating Agreements.* A Contractor subject to an Agreement may transfer that Agreement (including all rights and obligations thereunder) to any person eligible to enter into an Agreement under the same priority established in section 652(i)(1)(A) of the act as the Contractor, provided that:

(1) The Contractor gives notice of any such transfer to the Maritime Administrator by filing a completed application;

(2) The transfer is not disapproved in writing by the Maritime Administrator within 90 days of the notification; and

(3) the vessel to be covered by the Agreement after transfer is the same vessel originally covered by the Agreement or is an eligible vessel under section 651(b) of the act and is the same type, and comparable to, the vessel originally covered by the Agreement.

§ 295.21 MSP assistance conditions.

(a) *Term of MSP Operating Agreement.* MSP Operating Agreements shall be effective for a period of not more than one fiscal year, and unless otherwise specified in the Agreement, shall be renewable, subject to the availability of appropriations or amounts otherwise made available, for each subsequent fiscal year through the end of FY 2005. In the event appropriations are enacted after October 1 with respect to any subsequent fiscal year, October 1 shall be considered the effective date of the renewed agreement, provided sufficient funds are made available and subject to the Contractor's rights for early termination pursuant to section 652(m) of the act.

(b) *Terms under a Continuing Resolution (CR).* In the event funds are available under a CR, the terms and conditions of the MSP Operating Agree-

ments shall be in force provided sufficient funds are available to fully meet obligations under MSP Operating Agreements, and only for the period stipulated in the applicable CR. If funds are not appropriated at sufficient levels for any portion of a fiscal year, the terms and conditions of any applicable MSP Operating Agreement may be voided and the Contractor may request termination of the MSP Operating Agreement in accordance with § 295.20(f).

(c) *National security requirements.* Each MSP Operating Agreement shall require the owner or operator of an Eligible Vessel included in that agreement to enter into an Emergency Preparedness Program Agreement pursuant to section 653 of the act.

(d) *Vessel operating requirements.* The MSP Operating Agreement shall require that during the period an Eligible Vessel is included in that Agreement, the Eligible Vessel shall:

(1) *Documentation.* Be documented as a U.S.-flag vessel under 46 U.S.C. chapter 121; and

(2) *Operation.* Be operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105, and shall not otherwise be operated in the coastwise trade of the United States.

(e) *Limitations.* Limitations on Contractors with respect to the operation of foreign-flag vessels shall be in accordance with section 804 of the act, as amended. The operation of vessels, other than Agreement Vessels, in the noncontiguous trades shall be limited in accordance with service levels and conditions permitted in section 656 of the act.

(f) *Non-Contiguous Domestic Trade.* [Reserved]

(g) *Obligation of the U.S. Government.* The amounts payable as MSP Payments under a MSP Operating Agreement shall constitute a contractual obligation of the United States Government to the extent of available appropriations.

§ 295.22 Commencement and termination of operations.

(a) *Time frames.* A Contractor that has been awarded a MSP Operating